

**Notice of Allowability**

Application No.

09/768,530

Applicant(s)

LEE, CORINNA

Examiner

Art Unit

Dwin M. Craig

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8-18-2005.
2. ☒ The allowed claim(s) is/are 1, 2, and 4-74.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

DMC

**DETAILED ACTION**

**And**

**EXAMINER'S REASONS FOR ALLOWANCE**

1. Claims 1, 2 and 4-74 are allowed.
2. Claim 3 is cancelled.
3. The following is an examiner's statement of reasons for allowance: Independent claims 1, 25 and 49 are allowed for at least the following reasons.
  - 3.1 As regards independent claim 1, the following limitations, in combination with other limitations, are neither anticipated nor made obvious by the prior art, *"converting, at the driver, the graphics function call to a native command set for execution on a native system;"* in combination with, *"capturing the native command set in a database for subsequent performance analysis"*. The combination of the instant amendments to the claim language in combination with Applicant's arguments presented during prosecution has been in combination, persuasive and the Examiner withdraws the previously applied rejections to the claims.
  - 3.2 As regards independent claim 25, the following limitations, in combination with other limitations, are neither anticipated nor made obvious by the prior art, *"a driver capable of capturing the graphics function calls and converting the graphics function calls to a native command set"* in combination with, *"a routine capable of capturing the native command set to a database for subsequent performance analysis"*. The combination of the instant amendments to the claim language in combination with Applicant's arguments presented during prosecution has been in combination, persuasive and the Examiner withdraws the previously applied rejections to the claims.

Art Unit: 2123

**3.3** As regards independent claim 49, the following limitations, in combination with other limitations, are neither anticipated nor made obvious by the prior art, *“converting, at the driver, the graphics function call to a native command set for execution on a native system”* in combination with, *“capturing the native command set in a database; and executing the command set to determine graphics processing performance”*. Applicant’s arguments presented during prosecution have been persuasive and the Examiner withdraws the previously applied rejections to the claims.

**3.4** Dependent claims 2, 4-24, 26-48 and 50-74 are allowed as they depend upon an allowed base claim.

**3.5** Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

**3.6** Relevant prior art reference, the Examiner notes that the following prior art reference, which has not been cited during prosecution, is related to Applicant’s claimed invention. It is noted that US Patent 6,631,423 discloses a method of performance analysis for a graphics subsystem, (Col. 2 lines 50-67) using OpenGL® and using a device driver (Figure 3, items 308 and 310), however, the Examiner notes that no teaching of, *“translating a graphics call into a native command set or capturing the native command set into a database”* is disclosed or suggested by US Patent 6,631,423.


**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwin M. Craig whose telephone number is (571) 272-3710. The examiner can normally be reached on 10:00 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC

  
Paul L. Rodriguez 10/26/05  
Primary Examiner  
Art Unit 2125